

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSITAS EDUCATION, LLC,

Petitioner, :

-against- :

NOVA GROUP, INC., as trustee, sponsor and :
fiduciary of THE CHARTER OAK TRUST :
WELFARE BENEFIT PLAN, :

Case Nos. 11 CV 1590-LTS-HBP and
11 CV 8726-LTS-RLE

Respondent.
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NOTICE OF MOTION AND MOTION FOR

POST-JUDGMENT INTEREST AND ATTORNEYS' FEES

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Paula K. Colbath, with Exhibits A-D, dated November 12, 2013, Petitioner/Judgment Creditor Universitas Education, LLC ("Universitas"), by its attorneys Loeb & Loeb LLP, hereby moves this Court before the Hon. Laura Taylor Swain, at the United States Courthouse located at 500 Pearl St., New York, NY 10007, for an Order:

- a. Awarding Universitas post-judgment attorneys' fees and costs in the amount of \$1,101,232.84;
- b. Awarding Universitas post-judgment interest in the amount of \$81,744.07;
and
- c. Amending the judgment to increase the judgment amount to \$31,633,667.22, which includes both the fees, costs and interest that Universitas seeks on this motion (\$1,182,976.91), as well as \$268,810.01 in pre-judgment fees and

costs that the Court has previously awarded (but which has not been reduced to judgment).

On June 5, 2012, this Court entered a Memorandum Order confirming an Arbitration Award in Universitas' favor and denying Nova's petition to vacate the Award. Thereafter, on June 7, this Court entered Judgment in favor of Universitas in the amount of \$30,181,880.30 against Nova as Trustee, Sponsor and Fiduciary of the Charter Oak Trust Welfare Benefit Plan ("Charter Oak Trust"). On October 5, 2012, this Court granted Universitas' application for \$268,810.01 in attorneys' fees and costs (dkt. no. 162), for expenses incurred prior to the Court's entry of judgment on June 7, 2012. This amount, \$268,810.01, has not previously been reduced to judgment; Universitas seeks to reduce it to judgment by this application.

By this motion, Universitas first seeks mandatory post-judgment interest at a statutory annual rate of point-nineteen percent (.19%), per 28 U.S.C. § 1961. At this rate, with interest assessed from the date of judgment (June 7, 2012) and compounded annually, Universitas is as of this date entitled to post-judgment interest in the amount of \$81,744.07.

Universitas also moves for an award of \$1,101,232.84 in selected attorneys' fees and costs incurred since the Court entered judgment on June 7, 2012 for Universitas and against Nova. Section 8.02(d) of the Charter Oak Trust instrument authorizes the recovery of all litigation expenses, as this Court previously found in its Oct. 5, 2012 decision granting Universitas an award for pre-judgment attorneys' fees and costs. Each of the litigation expenses for which Universitas seeks reimbursement is a direct consequence of the refusal by Nova, and its principals and affiliates, to pay the judgment; and instead to release a barrage of post-judgment motions and engage in other obstructionist conduct intended to hide the truth about what they did with Universitas' money.

For these reasons, Universitas respectfully requests an award of \$1,182,976.91 in post-judgment interest, and attorneys' fees and costs, as well as entry of an amended judgment in the amount of \$31,633,667.22.

Universitas certifies that it has used its best efforts to resolve informally the matters raised in this motion.

Dated: New York, New York
November 12, 2013

LOEB & LOEB LLP

By: /s/ Paula Colbath.
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